

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND
GREENBELT DIVISION

DWIGHT D. MITCHELL, individually)	
and on behalf of other similarly situated)	
employees)	
)	
Plaintiff,)	
)	
vs.)	Civil Action No. 8:16-cv-03172
)	
FEDERAL EXPRESS CORPORATION,)	
)	
Defendant.)	

FEDERAL EXPRESS CORPORATION’S MOTION TO DISMISS

Pursuant to Federal Rules of Civil Procedure 12(b)(1) and 12(b)(6), Defendant Federal Express Corporation (“FedEx”) requests that this Court dismiss the Complaint of Plaintiff Dwight D. Mitchell (“Plaintiff”), and in support thereof, states as follows:

1. Plaintiff filed a claim under the Fair Labor Standards Act (“FLSA”) and the Maryland overtime statute (Md. Code Ann., Lab. & Empl. § 3-415(a)), seeking overtime compensation.
2. Because FedEx is a certified air carrier covered by the Railway Labor Act, it is exempt from the overtime requirements of the FLSA. This exemption applies to all employees of FedEx, including Plaintiff’s job position, security specialist. Plaintiff has, therefore, failed to state a claim upon which relief can be granted, and the FLSA claim should be dismissed pursuant to FRCP 12(b)(6).
3. In addition, the Maryland statute upon which Plaintiff’s state law claim is based is preempted by the Airline Deregulation Act (“ADA”), which prohibits enforcement of any state

laws that impact airline prices, routes, or services. Plaintiff has, therefore, failed to state a claim upon which relief can be granted, and the state law claim should be dismissed pursuant to FRCP 12(b)(6). Moreover, because Congress has explicitly divested the courts of jurisdiction over matters that impact the prices, routes, and services of an airline, subject matter jurisdiction is lacking, and the state law claim should also be dismissed pursuant to FRCP 12(b)(1).

WHEREFORE, Defendant Federal Express Corporation, respectfully requests that the Court issue an Order granting this Motion, dismissing all of Plaintiff's claims with prejudice, and awarding Federal Express Corporation all other relief to which it may be entitled.

DATED: December 9, 2016.

Respectfully submitted,

/s/ Peter Blumberg
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CERTIFICATE OF SERVICE

I hereby certify that on this 9th day of December, 2016, I electronically filed the foregoing using the CM/ECF system which will send a notice of electronic filing to the following CM/ECF participants:

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/s/ Peter Blumberg
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